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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,239	11/13/2003	Rajeev Chhabra	9103M	8603

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,239	Applicant(s) CHHABRA ET AL.	
	Examiner Norca L. Torres-Velazquez	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 19 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/10/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 12-18 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 19, 2005. Claim 20 has been canceled.

Claim Objections

2. Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 19 depends on non-elected claim 12.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 and 31-34 of copending Application No. 10/648,942. Both applications claim a nonwoven substrate that

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comprises at least one first region and at least one second region, wherein the second region comprises protruding elements.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by BRENNAN et al. (US 6,361,784).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37

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CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

BRENNAN et al. discloses a nonwoven wipe suitable for use as a pre-moistened baby wipe comprised of thermoplastic fibers. The wipe being calendar-embossed with a pattern comprising a plurality of discrete icons. The reference teaches that in a preferred embodiment the nonwoven web has a fiber composition of between about 40%-60% viscose, and the remainder thermoplastic fiber. (Abstract) The reference teaches that the wipe comprises a solution comprising an aqueous solution. (Col. 3, lines 16-24) The pre-moistened wipe is made by wetting the dry substrate with at least 1 gram of liquid lotion per gram of dry fibrous web. (Col. 6, lines 21-28) The reference further teaches that the embossed area is essentially equal to the land area of the embossing protrusions when calendar embossing is used. (Col. 8, lines 49-51)

It is the Examiner's interpretation that the land areas of the BRENNAN et al. reference equate to the first region of the present invention while the embossing protrusions equate to the second region of the present invention. The use of calendar-embossing reads on the thermal bonding that locks the protruding elements.

With regards to claim 2, it is noted that the reference teaches from 60%-40% of thermoplastic fibers.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-11 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over BRENNAN et al. (US 6,361,784) as applied above, and further in view of WALTON et al. (US 3,810,280).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

BRENNAN is silent to have a pattern including or containing furrows and ridges.

WALTON et al. relates to longitudinal treatment to produce desired effects in thin materials such as woven, knitted and nonwoven fabrics, yarns, among others. (Col. 1, lines 5-12; Abstract) A very specific object of the invention is to provide a method and means for

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improving the cover and bulk of textile materials. (Col. 1, lines 64-66) The invention concerns machines having opposed members for contacting respective sides of the material, in the case of uniform treatment of webs of the members normally being uniform across the width of the traveling web. On side of the material is located a drive member providing a movable drive surface and on the other side there is a retarder member spaced from the movable drive surface and having a retarding surface to engage the exposed face of and retard the material while the material is exposed to the drive surface. The reference teaches that in any forms of the invention the retarding portions may comprise projections. (Col. 2, lines 1-33) For treating compressible materials, a drive surface comprising a surface having ridges and grooves may be used. (Col. 2, lines 56-58) For treating textiles, the retarding surface may be arranged to nap the surface of the material in the process of retarding it. The method of the invention is applicable to bulking or softening a length of fibrous material by providing the driving surface material with material gripping projections. (Refer to Col. 4, lines 47-68) The reference teaches the use of the retarding surface to nap the fabric by dislodging individual threads from their bundles. The reference teaches that where it is desired mainly to bulk or thicken a textile, and not to shorten it, advantageously the effective length of the retarding surface is kept short. When the material emerges from under a short extent of retarder immediately "blooms" into a bulky form. (Refer to Col. 8, lines 56 through Col. 9, lines 1-25)

It is the Examiner's interpretation that the method taught by WALTON using a drive surface comprising a surface having ridges and grooves provides the claimed furrows and ridges in the fabric.

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It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the embossed areas of the BRENNAN web and provide them with the treatment taught by WALTON with the motivation of bulking or “blooming” the textile material in those areas as disclosed by WALTON (above).

Although the prior art of BRENNAN and WALTON does not explicitly teach the claimed thickness increase of the nonwoven it is reasonable to presume that a thickness increase of at least 30% is inherent to the treatment taught by WALTON. Support for said presumption is found in the use of like materials (i.e. the “blooming” or bulking treatment provided by a drive surface containing ridges and grooves.) The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of a thickness of at least 30% greater than the thickness of the nonwoven substrate prior to being textured would obviously have been present one the BRENNAN et al. in combination with the treatment of WALTON is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being obvious over CABELL et al. (US 6,458,447 B1).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of

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invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

CABELL et al. discloses a paper web that comprises a plurality of first regions and a plurality of second regions. The first regions form boundaries separating the second regions. The first regions being substantially in a plane of the paper web. The second regions comprise a plurality of raised out-of-said plane rib-like elements. (Abstract) The reference teaches that the second regions 66 include a plurality of raised rib-like elements 74. The rib-like elements 74 may be embossed, debossed or a combination thereof. (Col. 7, lines 37-51) The reference further teaches the use of a wetting agent and teaches that their inclusion preserves a certain amount of tensile strength due to plasticization of the cellulosic fiber structure. (Col. 11, lines 48-65) The reference further teaches laminates bonded by methods such as thermal bonding, pressure bonding, and adhesive bonding. (Col. 12, lines 13-21)

It is the Examiner's interpretation that the first regions and second regions of the CABELL et al. reference read on the presently claimed first region and second region, and that the raised rib-like elements 74 of the reference read on the protruding elements of the present

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invention. It is noted herein that embossing known in the art of webs typically includes thermal calendar-bonding.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to reinforce the protruding elements of the second regions by locking them with thermal bonding produced by an embossing method motivated by the desire of maintaining the structural integrity of the region and further the inclusion of a wetting agent serves as a chemical treatment that further preserves the tensile strength of the material due to the plasticization of the fiber structure.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McFALL et al. (US 6,203,654 B1)

FLETCHER (US 304,418)

AZIZ (US 4,323,068)

DOBRIN et al. (US 6,383,431 B1)

DOBRIN et al. (US 2002/0105110 A1)

MORIYASU et al. (US 2003/0176132 A1)

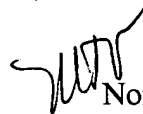
SMITH (US 3,616,157)

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

October 26, 2005